

MONTANA LEGISLATIVE HISTORY

Chapter 641 19 85

Bill H _____ S 452 Original bill & history ✓c

H. Committee on Bus & Labor

Hearing Date(s) _____ c

3/19 ✓c

_____ c

_____ c

Date out 3/29 ✓c

Tabled

S. Committee on Labor & Empl. Rel.

Hearing Date(s) _____ c

2/21 ✓c

_____ c

2/22 ✓c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

SENATE FINAL STATUS

2/22 HEARING
 2/22 COMMITTEE REPORT-BILL PASS AS AMENDED
 2/26 2ND READING PASS 46 3
 2/27 3RD READING PASS 47 3

TRANSMITTED TO HOUSE
 3/06 REFERRED TO BUSINESS & LABOR
 3/21 HEARING
 3/22 COMMITTEE REPORT-BILL CONCURRED
 3/23 2ND READING CONCURRED 88 2
 3/26 3RD READING CONCURRED 98 1

RETURNED TO SENATE
 3/30 SIGNED BY PRESIDENT
 4/02 SIGNED BY SPEAKER

4/05 TRANSMITTED TO GOVERNOR
 4/10 SIGNED BY GOVERNOR
 CHAPTER NUMBER 406 EFFECTIVE DATE: 10/01/85

SB 451 INTRODUCED BY MAZUREK
 PROVIDES FOR THE FAIR AND PROPER TREATMENT OF CRIME
 VICTIMS AND WITNESSES

2/19 INTRODUCED
 2/20 REFERRED TO JUDICIARY
 2/21 HEARING
 2/23 COMMITTEE REPORT-BILL PASS AS AMENDED
 2/26 2ND READING PASS 49 0
 2/27 3RD READING PASS 50 0

TRANSMITTED TO HOUSE
 3/06 REFERRED TO JUDICIARY
 3/25 HEARING
 3/25 COMM REPORT-BILL CONCURRED AS AMENDED
 3/30 2ND READING CONCURRED 92 2
 4/01 3RD READING CONCURRED 100 0

RETURNED TO SENATE WITH AMENDMENTS
 4/03 2ND READING AMENDMENTS CONCURRED 50 0
 4/05 3RD READING AMENDMENTS CONCURRED 45 0
 4/12 SIGNED BY PRESIDENT
 4/15 SIGNED BY SPEAKER

4/15 TRANSMITTED TO GOVERNOR
 4/19 SIGNED BY GOVERNOR
 CHAPTER NUMBER 554 EFFECTIVE DATE: 10/01/85

SB 452 INTRODUCED BY ECK, BARDANOUVE, COHEN, ET AL.
 EMPLOYEE AND COMMUNITY HAZARDOUS CHEMICAL
 INFORMATION ACT

2/19 INTRODUCED
 2/20 REFERRED TO LABOR & EMPLOYMENT RELATIONS
 2/20 FISCAL NOTE REQUESTED
 2/21 HEARING
 2/23 COMMITTEE REPORT-BILL PASS AS AMENDED
 2/26 FISCAL NOTE RECEIVED
 2/26 2ND READING PASS 49 0
 2/27 3RD READING PASS 50 0

SENATE FINAL STATUS

TRANSMITTED TO HOUSE
 3/06 REFERRED TO BUSINESS & LABOR
 3/19 HEARING
 4/01 ON MOTION PLACED ON 2ND READING
 4/04 2ND READING CONCURRED AS AMENDED 88 0
 4/08 3RD READING CONCURRED 86 10

RETURNED TO SENATE WITH AMENDMENTS
 4/13 ON MOTION RULES SUSPENDED
 TO ACCEPT TO CONSIDER HOUSE AMENDMENTS
 4/17 2ND READING AMENDMENTS CONCURRED 49 0
 4/18 3RD READING AMENDMENTS CONCURRED 44 5
 4/22 SIGNED BY PRESIDENT
 4/23 SIGNED BY SPEAKER

4/24 TRANSMITTED TO GOVERNOR
 4/30 SIGNED BY GOVERNOR
 CHAPTER NUMBER 641 EFFECTIVE DATE: 11/25/85

SB 453 INTRODUCED BY VAN VALKENBURG, MAZUREK
 REGULATE WIRETAPS

2/19 INTRODUCED
 2/20 REFERRED TO JUDICIARY
 2/22 HEARING
 2/23 COMMITTEE REPORT-BILL PASS AS AMENDED
 2/26 2ND READING PASS AS AMENDED 49 0
 2/27 3RD READING PASS 50 0

TRANSMITTED TO HOUSE
 3/06 REFERRED TO JUDICIARY
 3/21 HEARING
 DIED IN COMMITTEE

SB 454 INTRODUCED BY FULLER, PINSONEAULT, ET AL.
 ENABLING COUNTIES TO REHABILITATE RURAL NONFARM
 HOUSING
 BY REQUEST OF SENATE LOCAL GOVERNMENT & DEPARTMENT
 OF COMMERCE

2/19 INTRODUCED
 2/20 REFERRED TO LOCAL GOVERNMENT
 2/23 HEARING
 2/23 COMMITTEE REPORT-BILL PASS AS AMENDED
 2/26 2ND READING PASS 49 0
 2/27 3RD READING PASS 50 0

TRANSMITTED TO HOUSE
 3/06 REFERRED TO LOCAL GOVERNMENT
 3/19 HEARING
 3/20 COMMITTEE REPORT-BILL CONCURRED
 3/23 2ND READING CONCURRED 91 0
 3/26 3RD READING CONCURRED 97 2

RETURNED TO SENATE
 3/30 SIGNED BY PRESIDENT
 3/30 SIGNED BY SPEAKER
 4/01 TRANSMITTED TO GOVERNOR

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 State Law Library
 of Montana

SENATE BILL NO. 452

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE "EMPLOYEE

AND COMMUNITY HAZARDOUS CHEMICAL INFORMATION ACT"; REQUIRING

EMPLOYERS TO PROVIDE EMPLOYEES WITH INFORMATION CONCERNING

HAZARDOUS CHEMICALS IN THE WORKPLACE; REQUIRING COUNTY CLERK

AND RECORDERS TO MAINTAIN AND PROVIDE PUBLIC ACCESS TO THIS

INFORMATION; PROVIDING FOR INSPECTIONS BY LOCAL FIRE CHIEFS;

SPECIFYING RIGHTS OF EMPLOYEES; PROVIDING TRADE SECRET

CONFIDENTIALITY IN CERTAIN CIRCUMSTANCES; AND PROVIDING A

DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [This act] may be known and cited as the "Employee and Community Hazardous Chemical Information Act".

Section 2. Definitions. As used in [this act], the following definitions apply:

(1) "Chemical manufacturer" means an employer in standard industrial classification codes 20 through 39, as defined in the federal Standard Industrial Classification Manual, with a workplace where chemicals are produced for use or distribution.

(2) "Chemical name" means the scientific designation

of a chemical in accordance with the nomenclature system developed by the international union of pure and applied chemistry or the chemical abstracts service rules of nomenclature.

(3) "Common name" means any designation or identification, such as code name, code number, trade name, brand name, or generic name, used to identify a chemical other than by its chemical name.

(4) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(5) "Designated representative" means:

(a) the individual or organization to whom an employee gives written authorization to exercise the employee's rights under [this act]; or

(b) a recognized or certified collective bargaining agent who is automatically a designated representative without regard to written employee authorization.

(6) "Distributor" means a business, other than a chemical manufacturer, that supplies hazardous chemicals to other distributors or to employers.

(7) "Employee" means a person who may be exposed to hazardous chemicals in his workplace under normal operating conditions or possible emergencies.

(8) "Employer" means a person, firm, corporation,

1 partnership, association, governmental agency, or other
2 entity engaged in business or providing services that
3 employs workers.

4 (9) "Exposure" means ingestion, inhalation,
5 absorption, or other contact in the workplace with a
6 hazardous chemical and includes potential, accidental, or
7 possible exposure.

8 (10) "Hazardous chemical" means, except as provided in
9 [section 3]:

10 (a) any element, chemical compound, or mixture of
11 elements or compounds which is a physical hazard or health
12 hazard as defined by subsection (c) of the OSHA standard;

13 (b) any hazardous chemical as defined by subsection
14 (d)(3) of the OSHA standard; or

15 (c) any emitter of ionizing radiation.

16 (11) "Label" means any written, printed, or graphic
17 material displayed on or affixed to containers of hazardous
18 chemicals.

19 (12) "Local fire chief" means:

20 (a) the chief of the municipal fire department or his
21 agent, for any workplace located within a city or town; or

22 (b) the county rural fire chief or the district rural
23 fire chief or his agent, for any workplace not located
24 within a city or town.

25 (13) "Manufacturing employer" means an employer with a

1 workplace classified in any standard industrial
2 classification code 20 through 39 who manufactures, uses, or
3 stores a hazardous chemical.

4 (14) "Material safety data sheet" means a document
5 prepared in accordance with the requirements of the OSHA
6 standard and containing chemical hazard and safe handling
7 information.

8 (15) "Nonmanufacturing employer" means an employer with
9 a workplace in any standard industrial classification code
10 other than 20 through 39.

11 (16) "OSHA standard" means the hazard communication
12 standard issued by the federal occupational safety and
13 health administration, codified under 29 C.F.R. 1910.1200,
14 as that statute reads on January 1, 1985.

15 (17) "Trade secret" means a confidential formula,
16 pattern, process, device, or information, including chemical
17 name or other unique chemical identifier, which is used in
18 an employer's business and which gives the employer an
19 opportunity to obtain an advantage over competitors.

20 (18) "Work area" means a room or defined space in a
21 workplace where hazardous chemicals are produced, used, or
22 stored and where employees are present.

23 (19) "Workplace" means an establishment at one
24 geographical location containing one or more work areas.

25 (20) "Workplace chemical list" means the list of

1 hazardous chemicals developed under [this act] or under
2 subsection (e)(1)(i) of the OSHA standard.

3 Section 3. Applicability. (1) The provisions of [this
4 act] do not apply to:

5 (a) any consumer product intended for personal
6 consumption or use by an employee;

7 (b) any retail food sale establishment or other retail
8 trade establishment, exclusive of processing and repair
9 areas;

10 (c) a food, drug, or cosmetic as defined in the
11 Montana Food, Drug, and Cosmetic Act, Title 50, chapter 31;
12 or

13 (d) a source of ionizing radiation that is an exempt
14 or generally licensed material or device, as defined and
15 described in rules adopted under 75-3-202 and implementing
16 75-3-104 and 75-3-202.

17 (2) Employers operating the following workplaces are
18 in compliance with [this act] if they retain and make
19 accessible to employees and, when applicable, to students,
20 all material safety data sheets received or, if no material
21 safety data sheet is received for a hazardous chemical, any
22 other information received on its hazards and safe handling
23 and if the provisions of [sections 8, 9(5) through (7), and
24 12] are met:

25 (i) a teaching, research, or testing laboratory,

1 including any associated storeroom;

2 (ii) a clinical laboratory or health care facility as
3 defined in 50-5-101;

4 (iii) a pharmacy as defined in 37-7-101; or

5 (iv) an office of a physician, dentist, osteopath,
6 podiatrist, optometrist, or veterinarian licensed under
7 Title 37.

8 (3) The provisions of [this act] do not apply to any
9 hazardous chemical subject to the packaging and labeling
10 requirements imposed under the Federal Insecticide,
11 Fungicide, and Rodenticide Act, 7 U.S.C. 136, et seq.,
12 except that:

13 (a) a person storing such hazardous chemicals for the
14 purpose of resale must comply with the provisions of
15 [section 9]; and

16 (b) a chemical manufacturer producing such hazardous
17 chemicals must comply with all provisions of [this act].

18 Section 4. Relationship to OSHA standard.

19 (1) Manufacturing employers and distributors that are
20 regulated by and complying with the provisions of the OSHA
21 standard are exempt from the provisions of [this act],
22 except for [sections 6, 7, 9, and 10].

23 (2) Nonmanufacturing employers that adopt and comply
24 with the provisions of the OSHA standard are exempt from the
25 provisions of [this act], except for [sections 6, 7, 9, and

1 10].

2 Section 5. Notice to employees. Employers shall post
3 adequate notice at locations where notices are normally
4 posted informing employees about their rights under [this
5 act].

6 Section 6. Workplace chemical list. (1) Each employer
7 shall compile and maintain a workplace chemical list that
8 must contain the following information for each hazardous
9 chemical present in the workplace:

10 (a) except as provided in [section 11], all generally
11 used common names of any hazardous chemical present in the
12 workplace, cross-referenced to the chemical name; and

13 (b) the work area in which the hazardous chemical is
14 normally stored or used.

15 (2) The workplace chemical list may be prepared for
16 the workplace as a whole or for each work area, provided the
17 list is readily available to employees and their designated
18 representatives.

19 (3) New or newly assigned employees must be made aware
20 of the workplace chemical list before working with or in a
21 work area containing hazardous chemicals.

22 (4) The workplace chemical list must be updated as
23 necessary but not less than annually.

24 Section 7. Material safety data sheets. (1) Each
25 chemical manufacturer or distributor shall provide a

1 manufacturing or nonmanufacturing employer with the
2 appropriate material safety data sheet upon delivery of a
3 hazardous chemical.

4 (2) Each employer shall maintain the most current
5 material safety data sheet for each hazardous chemical in
6 the workplace. If a material safety data sheet has not been
7 provided by the chemical manufacturer or distributor at the
8 time a hazardous chemical is delivered to the employer, the
9 employer shall request one in writing within 5 working days.
10 The employer shall send a copy of the letter requesting the
11 material safety data sheet to the clerk and recorder of the
12 county in which the workplace is located.

13 (3) Material safety data sheets must be provided by
14 the employer to any employee or designated representative
15 upon request for review or copying.

16 Section 8. Labels. (1) An employer or distributor may
17 not remove or deface any existing label on a container of a
18 hazardous chemical, except that the chemical name may be
19 concealed under trade secret protection as provided in
20 [section 11].

21 (2) Any portable container intended for an immediate
22 transfer of a hazardous chemical is not required to be
23 labeled.

24 Section 9. Emergency and community information.

25 (1) An employer normally having hazardous chemicals in the

1 workplace of his employees shall submit the following
2 information to the clerk and recorder of the county in which
3 the workplace is located:

4 (a) a copy of the most current material safety data
5 sheet for each hazardous chemical in the workplace;

6 (b) a copy of any correspondence sent or received by
7 the employer in an effort to obtain a material safety data
8 sheet for a hazardous chemical when none was provided by the
9 chemical manufacturer or distributor;

10 (c) a copy of each new annual workplace chemical list;
11 and

12 (d) the names and telephone numbers of knowledgeable
13 representatives of the employer or the chemical manufacturer
14 who can be contacted for further information or in case of
15 an emergency.

16 (2) The county clerk and recorder shall record, file,
17 or otherwise maintain the information provided under
18 subsection (1). The county clerk and recorder shall maintain
19 a copy of each current material safety data sheet until
20 informed by the employer that the hazardous chemical is no
21 longer used or present in the workplace. The county clerk
22 and recorder shall maintain a copy of each annual workplace
23 chemical list for 30 years. All information for any given
24 workplace must be filed, recorded, or maintained in a manner
25 that allows it to be readily retrievable as a whole.

1 (3) All information submitted under subsection (1) is
2 public information and must be available at the office of
3 the county clerk and recorder during normal working hours to
4 any person for inspection and copying at the expense of the
5 person requesting copies.

6 (4) The local fire chief shall inspect all information
7 maintained by the county clerk and recorder on workplace
8 hazardous chemicals and upon request must be provided with a
9 copy of any document.

10 (5) The local fire chief must be permitted onsite
11 inspection of hazardous chemicals in any workplace,
12 including workplaces under the control of a state agency,
13 for the purposes of planning fire department activities in
14 case of an emergency and reviewing compliance with [this
15 act].

16 (6) As a result of an inspection, the local fire chief
17 may note and report for possible action by the county
18 attorney or other appropriate law enforcement official any
19 violation by an employer of a provision of [this act] or any
20 other law pertaining to hazardous chemicals or fire safety.

21 (7) The local fire chief shall consult at least
22 annually on safety and emergency considerations with each
23 person responsible for the operation of any research,
24 educational, or testing laboratory workplace. The
25 consultation may result in recommendations or, under the

1 provisions of 50-62-108, orders by the fire chief to be
2 implemented by the laboratory operator to enhance public
3 safety, to reduce the likelihood of emergency incidents, or
4 to improve emergency response in the event of an accident.
5 The person responsible for the operation of the laboratory
6 shall contact the local fire chief at any time there is a
7 significant change in the location or nature of the
8 hazardous chemicals in the workplace, initiation of any new
9 and potentially dangerous method of processing or reacting
10 hazardous chemicals, or any other operational change
11 affecting emergency response considerations.

12 Section 10. Employee rights. (1) An employee who may
13 be exposed to hazardous chemicals must be informed of the
14 potential or actual exposure and must be provided access to
15 the workplace chemical list and to the material safety data
16 sheet for each hazardous chemical. An employer who does not
17 provide an employee with information on a hazardous
18 chemical, as required by [this act], may not require the
19 employee to work with the hazardous chemical until the
20 information is made available.

21 (2) Each employee must receive training from his
22 employer, as provided in [section 12] or in the OSHA
23 standard, on the hazards of workplace chemicals and on
24 protective measures for handling those chemicals.

25 (3) Each employee required to work with a hazardous

1 chemical must be provided with appropriate personal
2 protective equipment.

3 (4) No employer shall discharge, cause to be
4 discharged, discipline, discriminate against, or initiate
5 any adverse personnel action against any employee who
6 exercises his rights, testifies, or assists others in
7 exercising their rights or duties under [this act].

8 (5) A waiver by an employee of the benefits, rights,
9 or requirements of [this act] is against public policy and
10 is void. An employer's request or requirement that an
11 employee waive any rights under [this act] as a condition of
12 employment is a violation of [this act].

13 (6) A designated representative may act on behalf of
14 an employee in pursuing any right or enforcement remedy
15 under [this act].

16 Section 11. Trade secret confidentiality. (1) An
17 employer who believes that the name of a hazardous chemical
18 is a trade secret may withhold the chemical name from the
19 material safety data sheet and workplace chemical list only
20 if:

21 (a) a material safety data sheet, coded to an
22 identifying notation on each container of the hazardous
23 chemical, is available in the work area where the hazardous
24 chemical is present;

25 (b) the material safety data sheet discloses the

1 properties and effects of the hazardous chemical;

2 (c) the specific chemical identity is provided to a
3 treating physician or nurse in the event of a medical
4 emergency, as provided for in subsection (i)(2) of the OSHA
5 standard;

6 (d) the specific chemical identity is provided in
7 nonemergency situations to a health professional providing
8 medical or other occupational health services to an exposed
9 employee, as provided for in subsections (i)(3) through (5)
10 of the OSHA standard; and

11 (e) the employer obtains a declaratory judgment or an
12 action is pending therefor, as provided in subsection (2).

13 (2) In order to obtain confidentiality protection for
14 a trade secret, an employer shall obtain a declaratory
15 judgment in an action filed in the district court for Lewis
16 and Clark County. Before entering judgment conferring
17 confidentiality protection, the court must find, based on
18 supporting documentation, that a need for trade secret
19 classification has been established. The department must be
20 served and may intervene as a party in the action. During
21 the pendency of any such declaratory judgment action, the
22 department must maintain the information as confidential.

23 Section 12. Employee education program. (1) Each
24 employer shall provide, at least annually, an education and
25 training program for all his employees using or handling

1 hazardous chemicals. Additional instruction must be provided
2 whenever the potential for exposure to hazardous chemicals
3 is altered or whenever new and significant information is
4 received by the employer concerning the hazards of a
5 chemical. New or newly assigned employees must be provided
6 training before working with or in a work area containing a
7 hazardous chemical.

8 (2) The programs must provide instruction in:

9 (a) interpreting labels and material safety data
10 sheets and the relationship between these two methods of
11 hazard communication;

12 (b) the location and acute and chronic effects of
13 hazardous chemicals used by the employees; and

14 (c) the safe handling, protective equipment, first-aid
15 treatment, and cleanup and disposal procedures for hazardous
16 chemicals.

17 (3) The employer shall keep a record of the dates of
18 training sessions given to employees and the names of the
19 employees attending.

20 Section 13. Departmental information program. (1) The
21 department may develop and provide to any employer a
22 suitable form of notice to inform employees of their rights
23 under [this act].

24 (2) The department may develop an education and
25 training program to assist employers in complying with the

1 provisions of [section 10].

2 (3) The department may develop and distribute a supply
3 of informational leaflets on employer duties, employee
4 rights, the effects of hazardous chemicals, and any other
5 topic related to hazardous chemicals in the workplace.

6 (4) The department may contract with the Montana
7 university system or any other public or private
8 organization to develop and implement an information program
9 on hazardous chemicals in the workplace.

10 Section 14. Construction of act. The provision of
11 information to an employee does not in any way affect the
12 liability of an employer with regard to the health and
13 safety of an employee or other person exposed to hazardous
14 chemicals, nor does it affect the employer's responsibility
15 to take any action to prevent the occurrence of occupational
16 disease or accident as required under any other provision of
17 law. The provision of information to an employee does not
18 affect any other duty of a manufacturer, producer, or
19 formulator to warn ultimate users of a hazardous chemical
20 under any other provision of law.

21 Section 15. Complaints, investigation, and penalties.

22 (1) An employee in a workplace covered by the OSHA standard
23 who believes his employer is not complying with the
24 provisions of the OSHA standard may report the alleged
25 violation to the federal occupational safety and health

1 administration.

2 (2) A person who believes an employer is not complying
3 with the provisions of [this act] may submit a written
4 complaint to the local health officer, as defined and
5 described in Title 50, chapter 2, part 1.

6 (3) If the local health officer chooses to act on the
7 complaint, he shall:

8 (a) within 5 working days of receipt of the complaint,
9 investigate the complaint and, in the event of an apparent
10 violation, seek a corrective response from the employer;

11 (b) within 10 working days of receipt of a complaint,
12 complete a report that details the findings of the
13 investigation and the response of the employer;

14 (c) upon completion of the report, submit copies to
15 the person requesting the investigation, the county
16 attorney, and the employer; and

17 (d) if the evidence suggests that the employer has
18 violated and will continue to violate the provisions of
19 [this act], file a complaint in the appropriate court or
20 request appropriate action by the county attorney to
21 prosecute the alleged violation.

22 (4) A person may submit a written complaint to the
23 county attorney:

24 (a) without first submitting it to the local health
25 officer; or

1 (b) if the local health officer chooses not to act on
2 the complaint, does not follow the provisions of subsection
3 (3), or does not achieve compliance with the law.

4 (5) The county attorney shall investigate any
5 complaint received and, if a violation appears to have
6 occurred, initiate appropriate court proceedings to
7 prosecute the violation.

8 (6) If the county attorney fails to achieve compliance
9 with the provisions of [this act], the person submitting the
10 complaint may request in writing that the attorney general,
11 under the powers authorized in 2-15-501, order the county
12 attorney to promptly institute proceedings and diligently
13 prosecute the violation.

14 (7) A person found to be in violation of [this act] is
15 guilty of a misdemeanor. Each day of violation is a separate
16 offense.

17 (8) In addition to the remedies provided in this
18 section, a person who believes his rights have been violated
19 under [this act] may apply to the district court for a
20 restraining order or temporary or permanent injunction
21 prohibiting a person from violating or mandating compliance
22 with any provision of [this act].

23 Section 16. Severability. If a part of this act is
24 invalid, all valid parts that are severable from the invalid
25 part remain in effect. If a part of this act is invalid in

1 one or more of its applications, the part remains in effect
2 in all valid applications that are severable from the
3 invalid applications.

4 Section 17. Effective date. This act is effective
5 November 25, 1985.

-End-

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

COURTESY OF THE
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of Montana

February 21, 1985

The sixteenth meeting of the Labor and Employment Relations Committee was called to order on February 21, 1985, at 5:10 p.m. in Room 413/415, State Capital Building.

ROLL CALL: All members were present except for Senator Towe, who was excused.

CONSIDERATION OF SENATE BILL 452:

Chairman Lynch called on Senator Dorothy Eck, sponsor of Senate Bill 452. Senate Bill 452 is the Employee and Community Hazardous Chemical Information Act, popularly known as the "Right-To-Know Act." Senator Eck summarized the bill.

PROPELENTS OF SENATE BILL 452:

Don Judge, representing Montana State AFL-CIO, rose in support of Senate Bill 452.

(Exhibit No. 1)

Gene Fenderson, representing Montana State Building Construction Trades Council, passed out testimony that he was asked to give to the committee for Mill Morton, representing Montana Painters District Council #59.

(Exhibit No. 2)

Mike Walker, representing Montana Council of Professional Fire Fighters, said that last session what killed this bill was that it was not made relative to Montana because we are not an industrious state and we have a low population. Since last session, we have had two fires at Montana State University, each one of them involving chemicals. He encouraged the committee to vote for Senate Bill 452.

Howard Rosenleaf, representing the business manager of Carpenters Local #88 in Anaconda, Montana State Council of Carpenters, and Robert Kokoruda, submitted testimony.

(Exhibit No. 3)

Dan Figgins, representing the Farm Marshall in Bozeman, said there were two incidences in Bozeman that have happened in the past, both dealing with chemicals. His group supports this bill strongly.

Russ Brown, representing Northern Plains Resource Council, submitted testimony and said his organization urges the passage of this bill.

(Exhibit No. 4)

February 21, 1985

Joe Brand, representing the Brotherhood of Railway and Airline Clerks, Brotherhood of Locomotive Engineers Brotherhood of Maintain of Wade Employees, and the United Transportation Union. These groups concern is, when hazardous materials are on trains, the people of the communities along the route should be notified far in advance that there are going to be hazardous materials on that train and where they are in the train. They think this is much needed.

Judy Olson, representing Montana Nurses' Association, said her group supports the legislation because of three reasons:
1) The welfare of the people; 2) Knowing how to treat the exposed patient; and 3) Problems that they are experiencing in the profession.

Ben Havdahl, representing Montana Motor Carriers Association, said the bill is not without its problems. It impacts the transportation of hazardous materials, especially by motor carriers, throughout the state. He would like to suggest that certain requirements of the bill, particularly those that make certain requirements of OSHA, should also be covered under the requirements of the Department of Transportation. He handed out a book, EMERGENCY RESPONSE GUIDEBOOK.
(Exhibit No. 5)

George Ochenski, representing the Environmental Information Center, said his group is in strong support of this bill.
(Exhibit No. 6)

Mike Fennegon, Anaconda, said employees have not been aware of hazardous wastes. He is in favor of the Right-To-Know Act.
(Exhibit No. 7)

Mike Stotts, State Fire Marshall Bureau, rose in support of Senate Bill 452. He is the project manager of the state reporting system. The state reporting system is a system that mandates all fire services in the state to report their calls. He presented some statistics: in 1981 the fire service in Montana responded to 1,650 hazardous conditions; in 1982 they responded to 1,632; in 1983 they responded to 1,979; and in 1984 they responded to 1,458

Tom Brown, representing Burlington Northern Railroad, said BN supports Senate Bill 452. He gave reports of Burlington Northern Railroad.
(Exhibit No. 8)

Al Sampson, City of Missoula, said there are two things extremely scary about the fireman's job: 1) kids; 2) when something is burning and you have no idea what that is.

Butch Turk, representing the Peace Legislative Coalition, rose in support of Senate Bill 452.

C.B. Pearson, Executive Director of the Montana Public Interest Research Group, submitted testimony in support of Senate Bill 452.
(Exhibit No. 10)

Bob Anderson, Common Cause, rose in support of Senate Bill 452.

Ray Blihm, representing Montana State Fireman, spoke about hazard areas in Billings.

OPPONENTS OF SENATE BILL 452:

None were present.

QUESTIONS FROM THE COMMITTEE:

Senator Keating referred to page 17, line 14. He said, "A person found to be in violation of [this act] is guilty of a misdemeanor. Each day a violation is a separate offense. What point in time does the violation begin?"

John MacCaster said the court would rule that it is from the day you, knowingly violate.

Senator Keating said that in some cases, the knowledge of the danger comes after the fact, after the bad things had happened. He wasn't sure that PCB was understood to be a hazard when it was used. He asked if this bill is going to prevent unknown hazardous substances from being hazardous.

Senator Eck, said she didn't think so; we are relying on the OSHA list.

Senator Eck said, "I would like to ask John MacMaster; we talked about the matter of Department of Transportation regulations. I don't see that they are referred to any place."

Hugh Zackheim, staff member for the Environmental Quality Council, said he worked on drafting the bill. They worked up another bill called the Delaware Bill and didn't specifically address the issue.

Senator Keating said he didn't find in this bill a period of time for correction of a violation before someone is in violation. He didn't see how it is going to be helpful to file everything with the clerk and recorder.

George Ochenski, said these things can be recorded on micro-fiche. MSDS is one sheet of paper that lists the fire and explosive hazards and health hazards.
(Exhibit No. 11)

Senator Keating said that doesn't tell him how it is going to help anybody.

Mike Walker said that it helps because the emergency response personnel can go to the public office and get that information without having to harass any people. It is a central place where no one would be harassed. They can put all the information in one location. Most fire services pre-plan every major building throughout the city.

Senator Keating asked if there is a regular form for this.

Mike Walker said yes.

Senator Keating said he would like to remind the public for the record that it cost five dollars a page to file anything with the clerk and recorder. He asked if this means anybody handling this is going to have to pay for their own filing.

Senator Eck affirmed that that is generally the procedure of the clerk and recorder.

Senator Blaylock said you would like to have the DOT, which requires in the division, the motor carriers.

Ben Havdohl said his concern is complying with the statute as it is written.

Senator Eck closed on Senate Bill 452, saying we should someplace, rest the DOT regulations.

The hearing was closed on Senate Bill 452.

CONSIDERATION OF SENATE BILL 447:

Chairman Lynch called on Senator Richard Manning, sponsor of Senate Bill 447. Senate Bill 447 is an act to amend section 39-51-2304, MCA, of the Montana Department Insurance Law to conform it to Federal Unemployment Tax Law as required by federal law; and providing an immediate effective date. What this bill does in essence is take care of the problem in Senate Bill 70.

PROPOSERS OF SENATE BILL 447:

Dave Wanzencied, Commissioner, Montana Department of Labor and Industry, said on page 3, subsection 4, the stricken material there is in conflict with the preceding section. The test that the federal government sets out for this is defined in subsection (3)(d) on the preceding page.

OPPOSERS OF SENATE BILL 447:

None were present.

There were no questions from the Committee.

EXECUTIVE ACTION ON SENATE BILL 447:

Senator Haffey made a motion that Senate Bill 447 Do Pass. On a voice vote, the Committee voted unanimously, except for Senator Aklestad who voted no, that Senate Bill 447 DO PASS.

ADJOURNMENT: The Committee having no further business adjourned at the hour of 6:50 p.m.

COMMITTEE ON _____

DATE _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Butch Turk	Peace Legislative Coalition	SB 452	✓	
Geo. OCHENSKI	ENV. INF. CENTER	" "	✓	
Theresa H. Gault	What? State Capital Hill	" 452	✓	
Mike Amerson	Amerson	" 452	✓	
Eugene Fink	Helena	SB 452	X	
Don Smith	Mt. Chamber of Commerce	SB 452		
De Brand	MT. STATE AFL-CIO	SB 452	✓	
Don Higgins	City of Bozeman Fire Dept	SB 452	✓	
Mike Waller	MT St. Council Pro Firefighters	SB 452	—	
Michael A. Statter	STATE FIRE MARSHAL BUREAU	SB 452	✓	
Paul F. Brown	MT Nurses' Assoc	SB 452	✓	
Ray Blichner	MT Firefighters	SB 452	✓	
Don Judge	MT STATE AFL-CIO	SB 452	X	
Russ Brown	N.P.R.C. Helena	SB 452	X	
Al Sampson	City of Missoula	SB 452	X	
CB. Brown	Mont. PIRG	SB 452	X	
Robt. Anderson	Common Cause, MT	SB 452	✓	
David Wenzel	Dept of Labor	SB 447	X	
Ray Hudson	MT Motor Carriers	SB 447	X	
Thomas J. Brown	Burlington Northern R.R.	SB 452	X	

(Please leave prepared statement with Secretary)



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF DON JUDGE ON SENATE BILL 452, BEFORE THE SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE, FEBRUARY 21, 1985.

Mr. Chairman and members of the committee, for the record, I am Don Judge, representing the Montana State AFL-CIO. I am here to testify in support of Senate Bill 452.

For the past three years our conventions have passed resolutions supporting a Montana Right-to-Know Law. Workers are the ones who suffer from exposure to unknown substances, and who will tell you of the vital need for this important legislation. A Newsweek article of December 17, 1984 asks the disturbing question: Could the Bhopal tragedy that killed thousands, and injured tens of thousands happen here?

The article reports that:

"An estimated 6,000 U.S. facilities make possible hazardous chemicals. There are approximately 180,000 shipments by truck or rail every day in the United States of everything from nail polish remover to nuclear weapons."

"...The 1976 Toxic Substances Control Act requires that new chemicals be reviewed before they go on the market. But only 20 percent of those already in use have been tested even to minimal standards, according to the National Research Council."

Government studies report that there are over one-half million chemicals being used today in America's workplaces, and new chemicals are being introduced daily, (OSHA).

-In 5,200 plants surveyed, workers were exposed to 85,000 different trade name products. At 90 percent of those workplaces, workers did not know what actual chemicals were contained in those products, (NIOSH).

-17 percent of working mothers may be exposed to occupational factors that represent reproductive risks, (NIOSH). Nobody seems to know how many birth defects, miscarriages, abortions or other reproductive problems are caused by the hazardous substances to which mothers and fathers are exposed on the job.

-100,000 Americans die each year from occupational diseases, (U.S. DOL), which is the equivalent of a jumbo jet crashing everyday. These Americans die silently without the concern or press attention focused on the deaths caused when the Russians shot down the Korean Airliner or on the tragedy in Bhopal.

-Up to 38 percent of all cancers are related to work hazards, (NIOSH). The World Health Organization estimates that over 75 percent of all cancers are caused by environmental including occupational, exposures.

-Nearly two million Americans are suffering from disabling occupational diseases, (U.S. DCL) and yet only three percent of those Americans are receiving any type of workers' compensation benefits. It is not known how many people receiving social security or welfare disability payments are receiving those payments because of a disabling occupational disease. It is not known how much social security and welfare payments subsidizing workers' compensation.

It is far past the time that our advanced civilization has demanded information basic to the survival of workers and our communities. The lives of too many workers and the environments of too many citizens and communities are being put on the line daily by exposure to hidden chemicals.

There is no conceivable circumstance that should allow any employer to deny hazard information to any employee. It is a basic human right to be advised of risks. Every employer has a moral obligation to guarantee that he and his employees are fully protected and completely knowledgeable of any possible hazards.

We in Montana need Senate Bill 452 because:

- Doctors and health professionals can not adequately diagnose and treat patients unless and until they have full knowledge of what that patient has been exposed to.
- Citizens and the community need facts to prevent problems from toxics in the environment.
- Workers cannot protect themselves from workplace hazards unless and until they know and understand those hazards.
- Fire fighters, disaster and emergency personnel need information to protect themselves and to better protect property and the community in the event of fires, spills, accidents or disaster.
- State, county, city and local governments need to know about real and potential hazards to make rational decisions affecting the lives and property of citizens and taxpayers.

The U.S. Department of Labor, Occupational Safety and Health Administration has produced a "Hazard Communications" standard that will take effect this fall. That federal standard is deficient in many respects. It is limited in its scope and coverage, which is restricted only to manufacturing industries. The OSHA standard would only cover about 25,000 of the more than three hundred thousand people in Montana's workforce and it provides no right or benefit to the community. Senate Bill 452 would extend the benefits and protection of the OSHA standard to all Montana workers and their communities. We urge you to support this much needed legislation. Thank you.

NAME BILL MORTON BILL NO. S.B. 452
ADDRESS BOX 666, GREAT FALLS, MONTANA 59403 DATE 2-21-85
WHOM DO YOU REPRESENT MONTANA PAINTERS DISTRICT COUNCIL #59
SUPPORT XXXXXXX OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

40 Years ago the chemical hazards in the painting field were very few in comparison to today.

Today the chemistry is changing so fast in the painting industry that it's impossible to stay abreast of it.

We live in a post World War II chemical revolution. From 1,500-2,000 new chemicals enter the market every year.

Some of these substances have been found to be linked to birth defects, genetic defects and miscarriages. These products are used by Painters or anyone else who uses paint products containing these chemicals, such as lead, benzene, benzidine, zinc, urethane and vinyl chloride.

There are other chemicals which effect the nervous system and the brain.

Disorders and diseases of the brain and nervous system due mainly to solvents ranks #1 among painters.

In a Mt. Sinai School of Medicine study, 84% of the epoxypainters reported disorders and diseases due mainly to solvents.

Epoxy paints are widely used today and are good products which are very durable, but they are harmful.

The solvents used in epoxy's and some of these other paints are real chemical culprits such as:

Aromatic Hydrocarbons, Esters, Glycols, Ketones-such as Methyl-Ethyl-Keytone, Methylene Chloide, Mineral Spirits, Naphtha, Toluene, Acetone, Carbin Tetrochloride.

Some of these solvents also effect the kidneys and liver. Some have long range effects. Some of our people are finding now that chemicals they used 20 years ago are causing them, or their children, to have children with birth defects.

Some of these products are good products and we can be thankful for them and for the progress made in the field of chemistry in the past 40 years.

We need these products in the painting industry today, but they are dangerous and harmful and we feel that the user, not only the professional painter, but anyone who uses these products needs to know what they are using, the dangers involved and the protective equipment necessary to use the product safely.

This problem has become so serious to our people that our International President has put out a pamphlet for our members to give to our Family Doctors, advising them of some of the chemicals we are working with so they might be aware of the problem. He also has a short letter to the Physician.

For these reasons Painters District Council #59 supports this bill.

DISORDERS

POTENTIAL ETIOLOGIC AGENTS

RECOMMENDED SURVEILLANCE

Nervous System

Encephalopathy
(organic brain syndrome)
(chronic painters' syndrome)
(certain forms of dementia)

Organic solvents
(toluene, xylene, styrene, methylene chloride,
trichloroethylene, methyl ethyl ketone, etc.)

Loss of memory, attention, coordination; irritability, lassitude
Neuropsychological and neurophysiological tests; neuro exams

Lead*

GI pain, nausea, metallic taste
Blood lead levels, blood zinc protoporphyrin level (ZPP),
neuropsychological and neurophysiological tests

Acute narcosis
(possible coma, death)

Organic solvents
methylene chloride
toluene
benzene
trichloroethylene

Euphoria, headache, stupor, loss of coordination, lassitude
Carboxyhemoglobin levels;
Urinary hippuric acid levels
CBC
Urinary trichloroacetic acid (TCA); expired air analysis

Peripheral neuropathy

Lead*

Weakness of distal extensor muscles,
Blood lead levels, ZPP, neurological exam, neurophysiological
testing.

Arsenic

Urinary arsenic level; neuro exam; neurophysiologic testing

Respiratory System

Asthma

Polyurethane (toluene diisocyanate)
Epoxies (epichlorohydrin, bisphenol A)

Wheezing, dyspnea, bronchospasm
PFT before and after work
PFT before and after work

Lung cancer

Arsenic
Chromates

CXR
CXR

Cardiovascular

Angina
Cardiac arrhythmias

Methylene chloride
Trichloroethylene and other chlorinated hydrocarbons
Toluene

Carboxyhemoglobin levels; EKG and other tests
EKG and other tests
EKG and other tests

Hematopoietic

Anemia—hypochromic
Aplastic anemia, leukemia

Lead*
Benzene

Fatigue; C.B.C., blood lead level, zinc protoporphyrin level
Pallor, fatigue, reduced WBC count, infections

Skin and Mucous Membranes

Nasal septal perforation
Skin ulcers
Increased pigmentation
Eczematous dermatitis
Conjunctivitis

Chromates, arsenic
Chromates
Arsenic
Epoxies
Styrene

ENT exam
Skin exam
Skin exam, urinary arsenic level
Skin exam, patch testing
Ophthalmic exam

Kidney

Tubular damage
Chronic renal failure
Chronic glomerulonephritis

Cadmium
Lead*
Organic solvents

Urinary B₂ microglobulin
Blood lead level, ZPP, renal function tests
Renal function tests

*Lead has not been banned in industrial paints and coatings and is still widely used as a pigment; painters may also remove old paint which contains lead.

NOTE: This table includes only a very few of the possible work-related disorders of painters and a handful of the thousands of substances commonly found in paints and coatings. Industrial paints and coatings contain pigments, resins, solvents, binders, extenders, hardeners, fungicides, anti-foulants and other components. Surveillance techniques shown above are not intended to be complete.

International Brotherhood of
Painters and Allied Trades
Washington, D.C.

Dear Physician:

Your patient is a painter employed
in construction and maintenance.

Painters are exposed to thousands of
chemical and mineral substances—
often at concentrations in excess of
those permitted by law.

Perhaps the most hazardous
coatings are epoxies, urethanes,
chromates, vinyls, lead primers,
polyesters and alkyds. Solvents used
with industrial paints may also be
highly toxic.

Exposure to paints and coatings
may adversely affect human health in
numerous ways, and painters are
known to suffer high incidences of
certain diseases and disorders,
especially neurological and respiratory
conditions. For example, a clinical in-
vestigation of 2,000 U.S. painters by
the Mount Sinai School of Medicine
showed that up to 86% exhibited
neurotoxic symptoms due to occupa-
tional exposures, and Scandinavian
researchers found a work-related
encephalopathy in painters significant
enough to label as "chronic painters"
syndrome."

As president of the 200,000 member
International Brotherhood of Painters
and Allied Trades, I must call atten-
tion to work-related health problems
among our members. This pamphlet
contains an incomplete table of
disorders of painters, potential
etiologic agents and recommended
medical surveillance. Please maintain
this in your patient's file. Sources of
additional information about occupa-
tional illnesses are printed on the
back.

Sincerely,

William A. Duval

William A. Duval
General President



Health Effects of Paints and Coatings

For information about the health
effects of paints and coatings:

Harvard University
Occupational Health Program
655 Huntington Avenue
Boston, Massachusetts 02115
(617) 732-1260

For emergency information about
severe acute effects:

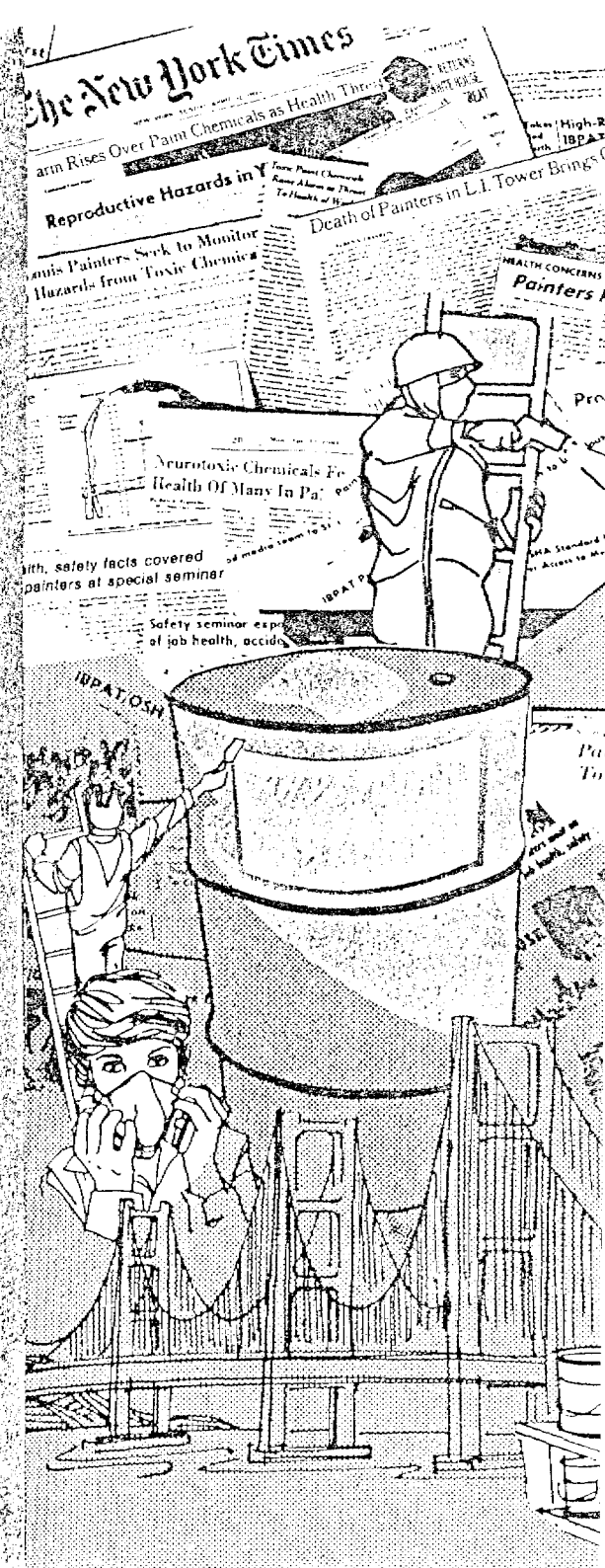
National Poison Center
(412) 681-6669

This material has been funded in part with funds
from the Occupational Safety and Health Admin-
istration, U.S. Department of Labor. These
materials do not necessarily reflect the view or
policies of the U.S. Department of Labor. Men-
tion of trade names, commercial products or
organizations does not imply endorsement by
the U.S. Government.

For paint formulations, educational
materials, and current bibliographies
of relevant clinical, animal and
epidemiological research

- neurotoxicity of paints
- cancer and paints
- lung diseases and paints

International Brotherhood of
Painters and Allied Trades
1750 New York Ave., N.W.
Washington, D.C. 20005
(202) 637-0745



Montana State Council of Carpenters

Robert G. Kokoruda
Executive Secretary
P. O. Box P
East Helena, MT 59635

United Brotherhood of Carpenters and Joiners of America

Phone
406/443-3847
or Leave Message
406/442-4326



February 21, 1985

Senate Bill 452 Senate Committee on Labor and Employment Relations

I am Howard Rosenleaf, business manager for Carpenters Local #88, Anaconda. Our members are supporting Senate Bill 452, because we believe that it will help prevent the health problems that worker experience from exposure to dangerous substances.

I'd like to tell you about one such experience. I had a friend who was burying a 50-gallon container of beryllium with a caterpillar, when the container broke. He inhaled the fumes. Within one month he experienced nosebleeds, nausea, dizziness, and weight loss. He was on and off work for the next year. His weight dropped from 220 pounds to 110 pounds and he died at work in the seat of his caterpillar.

The saddest thing of all is that he was never warned of the dangers of this chemical, and what was even more frightening was that he never knew what was happening to him. Now that we have some information about dangerous chemicals, we realize what caused his death. But there are still too many substances we are not informed about.

This bill will allow us to know about the dangers we face, how to prevent them and how to get treatment. We can prevent needless suffering and death like my friend experienced.

I ask that you vote in favor of Senate Bill 452.

Thank you.

TESTIMONY of MONTANA Agri Business ASS.
IN Support of S.B. 452

The MONTANA Agri Business Ass. is an Association of approximately 200 chemical and fertilizer dealers, Retailers and manufacturers.

The M.A.B.A. supports the concept of this "Right to Know" legislation. The industry seeks to support legislation that insures safety for workers and the public but that is at the same time workable for the industry.

Because this bill was introduced and a hearing set within such a short time frame the industry has not had time to carefully review all provisions of the bill, for possible amendments.

We urge the passage of S.B. 452 with the knowledge and hope that the other supporters of the bill will work with the industry in the House to amend the bill, if need be, to make it workable for the public and industry.

5

from Ben

Department of Justice
MTM/MLM

1984
**EMERGENCY
RESPONSE
GUIDEBOOK**

GUIDEBOOK
FOR
HAZARDOUS
MATERIALS
INCIDENTS

READ INSTRUCTIONS
ON FIRST PAGE



SB 452

WHAT IS SB 452 ?

Commonly known as the Right-to-Know Bill, SB 452 creates the "Employee and Community Hazardous Chemical Information Act." It requires employers who use, store, process or manufacture toxic or hazardous substances to provide employees with information concerning hazardous chemicals in the workplace. It also requires county clerk and recorders to maintain and provide public access to the information.

THIS IS A NEW RIGHT-TO-KNOW BILL

The major objectionable parts of last session's Right-to-Know bill, HB 850, have been removed or streamlined in SB 452.

- * HB 850 required employers to deal directly with the public.
- * SB 452 requires the public to go through their local government, and employers simply to file the information with the local government.
- * HB 850 required employers to maintain information on 5,700 chemicals.
- * SB 452 requires employers to keep a Material Safety Data Sheet (MSDS) on chemicals listed by the Occupational Safety and Health Administration (OSHA). OSHA has recently passed a rule which takes effect this year that requires the chemical producers to send with any hazardous materials an MSDS to the company who is using it. Employers need only to keep a file of these MSDSs.

HOW SB 452 WORKS

- * SB 452 requires a simple and quick way for the public, employees and emergency response personnel to obtain access to information on hazardous materials. Employers using such substances record an MSDS with their county clerk and recorder, which is then available to public access.
- * The fact that the whole process goes through the local, rather than the state government is an important part to the bill because while it provides employees and emergency response personnel and the community the right to information about hazardous substances, it relieves employers and the state of burdensome paperwork and expense.
- * Employers send the state only a list of the substances in use at their facilities. The MSDS on record locally would be available to anyone.
- * Trade secret confidentiality will be honored in legitimate circumstances.
- * Employers will post notice of the workers' right to know, maintain a workplace chemical list and MSDS on any hazardous material, and label all hazardous material containers.
- * The local Fire Chief is permitted on-site inspection of work places for emergency preparedness and compliance with the law.

WHY WE NEED SB 452

Chemical exposures are linked to a host of adverse health effects: cancer, birth defects, miscarriages, sterility, lung disease, central nervous system damage, kidney damage, skin disease, and chemical sensitization. Spouses and children of asbestos workers have been stricken by cancer caused by asbestos brought home in the workers' clothes.

The Federal OSHA programs regulate worker exposure to a number of chemical substances, and set exposure levels. SB 452 would smoothly mesh with the Federal program and provide valuable health information to workers and emergency response personnel as well as community planners and residents.

Montanan workers are exposed to potentially thousands of hazardous chemicals in their workplace.

OVER 20 STATES HAVE ALREADY PASSED RIGHT-TO-KNOW LEGISLATION, AND MANY MORE ARE CURRENTLY CONSIDERING IT.

**** VOTE YES**

ON SB 452 **

MONTANANS HAVE THE
RIGHT TO KNOW THE
HAZARDOUS SUBSTANCES
THEY ARE EXPOSED TO
IN ORDER TO PREVENT
ACCIDENTS AND ILLNESSES
OR TO OBTAIN PROMPT
AND ACCURATE DIAGNOSIS
AND TREATMENT.

U.S. DEPARTMENT OF LABOR Occupational Safety and Health Administration MATERIAL SAFETY DATA SHEET	
SECTION 1 - IDENTIFICATION	
SECTION 2 - HAZARDOUS INGREDIENTS	
SECTION 3 - COMPOSITION	
SECTION 4 - PHYSICAL DATA	
SECTION 5 - FIRE AND EXPLOSION HAZARD DATA	
SECTION 6 - REACTIVITY DATA	
SECTION 7 - SPECIAL PRECAUTIONS	
SECTION 8 - SPECIAL PRECAUTIONS	
SECTION 9 - SPECIAL PRECAUTIONS	
SECTION 10 - SPECIAL PRECAUTIONS	
SECTION 11 - SPECIAL PRECAUTIONS	
SECTION 12 - SPECIAL PRECAUTIONS	
SECTION 13 - SPECIAL PRECAUTIONS	
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SECTION 47 - SPECIAL PRECAUTIONS	
SECTION 48 - SPECIAL PRECAUTIONS	
SECTION 49 - SPECIAL PRECAUTIONS	
SECTION 50 - SPECIAL PRECAUTIONS	

(This sheet to be used by those testifying on a bill.) February 21, 19

SB 452

NAME: Mr. Timmerman DATE: 2-20-85ADDRESS: 3211 Highway 104PHONE: 563-2847REPRESENTING WHOM? Citizens of OracolaAPPEARING ON WHICH PROPOSAL: Right to KnowDO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Permit OKed

Two hi-volume air monitoring stations are to be installed and operated, one outside of the ARCO main gate, the other in the Mill Creek area. They will operate on a one-in-six day schedule, sampling for the total suspended particulate, arsenic, lead, cadmium and zinc.

The permit will be valid from the date it was issued through completion of the flue dust processing from the Anaconda Smelter site for a period of no longer than five years. If additional material is to be processed, a new permit will be required.

If all of the required conditions do not adequately control dust emissions the State Health Department can require further controls.

The firm plans to process the flue dust by moving it from various locations on the smelter to a hydrometallurgical processing facility which will produce cathode copper, commercial grade copper/silver concentrates and tailings which will be deposited in the existing Anaconda tailings pond.

The plant is designed to process 200 tons of flue dust per day

and is intended to operate seven days per week, 43 weeks per year. It will require approximately four years to process all of the material at the site.

The major potential source of emissions from the project are from the handling of the flue dust prior to the actual processing. This involves the removal of the material from piles, ponds and buildings and transporting it to the screening plant.

At the screening plant the material is dumped into hoppers and conveyed to screens. Iron oxide and manganese dioxide ore is added at the screening plant to be blended with the flue dust as part of the initial processing. The screening operation will be entirely enclosed except the top of the hopper bins where water sprays will be located. Water sprays will also be located at the discharge of the bins and at the top of the screens. The material will be slurred to the process plant from that point. The flue dust will go through a wet process at the plant, which will be fully enclosed, and no significant emissions are expected.

The other source of potential emissions would involve the tailings facility. A wet surface will be maintained through the life of the plant and will be covered upon abandonment.

The Environment Protection Agency monitor at the smelter will also have the responsibility to monitor the activities of the flue dust process.

Approximately 67 tons of uncontrolled particulate will be released into the air each year from the plant. This compares to 13,000 tons per year when the smelter was in operation.

With the application of water to the flue dust as required in the controls, it is estimated that emissions will be reduced to

*** PERMIT page three ***

be added.

Once the Cottrells are down, the 335 foot high smelter smoke stack may be demolished. A power house, which stood to the south of the stack, has already been removed.

The stack is scheduled to be demolished in the spring of 1984 unless the organization working to save it, the Anacondians to Preserve the Stack, can ready a proposal for its preservation by Feb. 1.

Arsenic

Linked to smelter worker mortalities

by Walter Mundstock

Exposure to arsenic has been found to be strongly related to respiratory cancer mortality in a sampling of 1,542 former smelter workers, according to a University of Michigan School of Public Health study. Smelter workers were found to have three times the death rate expected from respiratory cancer for white men living in the State of Montana.

The Higgins, Welch and Burchfield study, "Mortality of Anaconda Smelter Workers in relation to arsenic and other exposures," made use of data from a 1969 National Cancer Institute study of 8,047 employees at the Anaconda Smelter from 1934 to 1963. That study was updated to include workers up to 1978.

Employees at the smelter were divided into several arsenic exposure categories, low, medium, high or very high, by the department in which the men had spent at least 30 days, to obtain their average exposures. Their history of smoking was also studied.

Depending on which of the 35 departments at the smelter a worker was employed at, there was found to be a clear dose/response relationship, from no apparent increased risk

Three times the death rate expected from respiratory cancer

among men exposed to low concentrations of arsenic to a roughly seven fold excess risk in those exposed to the highest concentrations, particularly for those that smoked.

Those in low and medium categories had a risk close to that expected for most U.S. born white males.

The report found that brief exposures to high concentrations of arsenic may be more important with respect to respiratory cancer than an employee's average exposure over a length of time in several different departments.

The arsenic roaster, arsenic refinery, Cottrells and main flue were classed as "very high exposures." Classed as high exposures were the ore roaster, reverberatory furnaces, miscellaneous crusher and masons and the maintenance surface shops. The train, converter and zinc roaster and zinc plant were classed as medium exposure while the remainder of the smelter and the City of Anaconda were said to have low exposure to arsenic.

For example, those working in the arsenic roaster were found to be exposed to 20,226 micrograms per cubic meter, while those in the city were exposed to .45 micrograms per cubic meter.

"Exposure to arsenic appears to be the principle factor in the increased risk," the report notes. "Exposure to other occupational contaminants, such as sulfur dioxide and asbestos, does not appear to account for respiratory cancer excess in this population."

The study found that while smelter workers appeared to be a relatively heavy smoking group when compared with the rest of the U.S. population, that would only explain a small fraction of their excess respiratory cancer mortality.

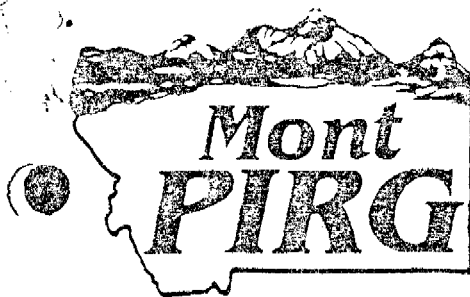
An association between country of origin and respiratory cancer death rates was also found. Those of foreign birth had a higher death rate for respiratory cancer than native born Americans, except in the highest arsenic exposure group.

For U.S. born white males, the study found in a group of 834 that had a life time ceiling exposure to arsenic of 500 to 4,999 micrograms per cubic meter, there were 32 cases of mortality from all respiratory diseases compared to 11.0 for all white males in the U.S. For non U.S. born males, which had an identical exposure, there were nine mortalities in a group of 135 compared to the 5.5 that could be expected.

For a group of 223 smelter workers who smoked that were exposed to arsenic exceeding 5,000 micrograms per cubic meter, there were 26 deaths compared to the 3.8 that were expected. In a group of 46 nonsmokers, that had the same arsenic exposures, there were three deaths compared to the .8 that was expected.

The smelter workers were also found to have increased mortality from cardiovascular diseases, cerebrovascular diseases, cirrhosis of the liver, urinary cancer and all respiratory diseases, but they were not related to the measures of arsenic exposure used in the study. The study did find however, that cardiovascular disease mortality increased for those exposed to higher levels of arsenic for smokers than nonsmokers. Further study of that relationship was urged.

The 232-page report, which was financed by the Anaconda Company, contained 165 pages of tables and appendices.



Montana Public Interest Research Group

729 Keith Avenue • Missoula, MT. 59801 • (406) 721-6040
532 N. WARREN • HELENA, MT 59601 • (406) 443-5155

TESTIMONY IN FAVOR OF S B 452

~~Chairman~~ CHAIRMAN AND MEMBERS OF THE COMMITTEE, MY NAME IS C.B. PEARSON. I AM SPEAKING TODAY ON BEHALF OF MONTPIRG, THE MONTANA PUBLIC INTEREST RESEARCH GROUP. MONTPIRG IS A NON-PROFIT, NON-PARTISAN RESEARCH, EDUCATION AND ADVOCACY ORGANIZATION ESTABLISHED AND DIRECTED BY UNIVERSITY OF MONTANA STUDENTS. IT IS FUNDED BY OPTIONAL STUDENT FEES AND SMALL DONATIONS FROM MONTANANS AND DOES WORK PERTAINING TO THE ENVIRONMENT, CONSUMER PROTECTION AND GOVERNMENTAL RESPONSIBILITY. WE SUPPORT SB 452.

FOR MUCH OF 1983, MONTPIRG CONDUCTED A "CRADLE TO GRAVE" STUDY OF HAZARDOUS MATERIALS IN MISSOULA COUNTY. THE REPORT HAS NOT YET BEEN RELEASED FOR PUBLIC DISTRIBUTION. THE STUDY FOCUSES ON SMALL HAZARDOUS WASTE GENERATORS THAT WERE NOT SUBJECT TO FEDERAL REGULATION. AS A RESULT OF THIS INFORMATION, THE GROWING NATIONAL PROBLEM OF HAZARDOUS WASTES, AND THE GENERAL DIFFICULTY IN GETTING INFORMATION ON HAZARDOUS MATERIALS WE ADVOCATE STRONG COMMUNITY "RIGHT-TO-KNOW" PROVISIONS.

MONTPIRG'S STUDY INCLUDED 100 BUSINESSES THAT PRODUCE, TRANSPORT, OR DISPOSE OF HAZARDOUS MATERIALS IN MISSOULA COUNTY. THE BUSINESSES WERE IDENTIFIED THROUGH THE TELEPHONE BOOK BASED UPON PREVIOUSLY STUDIED BUSINESSES DETERMINED TO GENERATE HAZARDOUS MATERIALS. THESE BUSINESSES WERE CONTACTED BY MAIL AND ALSO BY FOLLOW-UP PHONE CALLS TO COMPLETE A SURVEY. TEN BUSINESSES RESPONDED, TWO SURVEYS CONTAINED INFORMATION OF SUBSTANTIAL VALUE. MANY REFUSED TO COMPLETE THE SURVEY.

OUR GOAL IN CONDUCTING THIS SURVEY WAS TO IDENTIFY THOSE BUSINESSES THAT POSE A HAZARD TO THE WORKER AND THE COMMUNITY AND TO DETERMINE IF THE BUSINESS HAD TAKEN ANY SPECIAL PRECAUTIONS FOR THE WORKER OR THE COMMUNITY. WE HAD LITTLE LUCK WITH THE EFFORT.

THE NATIONAL CANCER INSTITUTE ESTIMATES THAT UP TO 20% TO 40% OF ALL CANCERS ARE ATTRIBUTABLE TO OCCUPATIONAL FACTORS. ALL INDIVIDUALS

IN AN AREA OF POTENTIAL EXPOSURE SHOULD KNOW THE POTENTIAL RISK AND WHAT CAN BE DONE ABOUT LESSENING THAT RISK. SB 452 SERVES TO PROVIDE THE COMMUNITY AND THE WORKER WITH MUCH NEEDED INFORMATION ABOUT THE HAZARDOUS MATERIALS AND WHAT PRECAUTIONS SHOULD BE TAKEN TO CURB ANY HARMFUL CONSEQUENCES OF EXPOSURE.

SB 452 PROTECTS THE COMMUNITY AND THE WORKER BY:

*ALLOWING PHYSICIANS IMMEDIATE ACCESS TO INFORMATION AS TO WHAT CHEMICALS A PATIENT MAY HAVE BEEN EXPOSED TO HELP DIAGNOSE AND TREAT THE PATIENT EARLIER AND MORE EFFECTIVELY,

*PROVIDING EMERGENCY PERSONEL WITH INFORMATION ON WHAT CHEMICALS THEY ARE RESPONDING TO ALLOWING FOR QUICKER CLEAN-UPS WITH MINIMUM DAMAGE TO THE ENVIRONMENT AND REDUCED EXPOSURE TO HUMANS, AND

*PROVIDING CITIZENS WITH A MEANS TO ENABLE THEM TO IDENTIFY POSSIBLE PROBLEMS AND TO TAKE ACTION ON THEIR BEHALF.

ONCE IN PLACE, PROVISIONS IN SB 452 WILL BE EASY TO MAINTAIN. THE SYSTEM ESTABLISHED BY SB 452 SETS UP A REASONABLE AND WORKABLE MEANS WHICH INTERESTED INDIVIDUALS, AS WELL AS EMERGENCY RESPONSE PERSONEL, CAN GAIN ACCESS AND MAKE USE OF BENEFICAL INFORMATION. SB 452 SIMPLY PROVIDES AN INVENTORY OF HAZARDOUS MATERIALS -- THE FIRST STEP IN SOLVING PROBLEMS THAT SURFACE WHEN HAZARDOUS SUBSTANCES ARE IN USE OR STORED.

THANK YOU.

Senator Manning made a motion that Senate Bill 400 Do Pass As Amended. On a voice vote, the Committee voted unanimously that Senate Bill 440 DO PASS AS AMENDED.

Senator Manning made a motion that the Statement of Intent be adopted and attached. (Exhibit No. 5) On a voice vote, the Committee voted unanimously that the Statement of Intent be adopted and attached with Senate Bill 440.

EXECUTIVE ACTION ON SENATE BILL 452: Senator Keating offered amendments to Senate Bill 452. (Exhibit No. 6) Senator Keating moved the amendments. On a voice vote, the Committee accepted the amendments.

Chairman Lynch offered amendments to Senate Bill 452. (Exhibit No. 7)

Senator Keating moved Chairman Lynch's amendments. On a voice vote, the Committee voted unanimously to accept the amendments.

Senator Eck offered amendments to Senate Bill 452. (Exhibit No. 8) On a voice vote, the Committee voted unanimously to accept the amendments.

Senator Aklestad asked if the fire departments are going to have access to these records.

Mike Walker said that is up to the fire department.

Senator Manning made a motion that Senate Bill 452 Do Pass As Amended. On a voice vote, the Committee voted unanimously that Senate Bill 452 DO PASS AS AMENDED.

EXECUTIVE ACTION ON SENATE BILL 430: John MacMaster offered suggestions to the Statement of Intent on Senate Bill 430. (Exhibit No. 9)

Senator Keating moved the amendments to the Statement of Intent. On a voice vote, the Committee voted unanimously to accept the amendments.

Senator Keating made a motion that Senate Bill 430 Do Not Pass. On a roll call vote, 5 Senators voted yes 3 voted no. (See attached sheet, Fxhibit No. 10)

Senator Manning moved the Statement of Intent be adopted and attached. On a voice vote, the Statement of Intent was adopted and attached.

EXECUTIVE ACTION ON SENATE BILL 356: Chairman Lynch offered amendments to Senate Bill 356. (Exhibit No. 11)

STANDING COMMITTEE REPORT

Page 1 of 2

FEBRUARY 22

1985

MR. PRESIDENT

We, your committee on LABOR AND EMPLOYMENT RELATIONS

having had under consideration SENATE BILL No. 452

first reading copy (white)
color

EMPLOYEE AND COMMUNITY HAZARDOUS CHEMICAL INFORMATION ACT

Respectfully report as follows: That SENATE BILL No. 452

be amended as follows:

1. Page 5, line 12.
Following: line 11
Strike: "or"

2. Page 5, line 16.
Following: "75-3-202"
Strike: ".
Insert: "; or"

3. Page 5, line 17.
Following: line 16
Insert: "(c) sealed containers of hazardous chemicals during transportation or while in storage at transportation terminals, so long as existing labels are not removed or defaced and the employer complies with state and federal regulations relating to the transportation of hazardous chemicals."

4. Page 5, line 25, and lines 2, 4, and 5 on page 6.
Redesignate: subsections (i), (ii), (iii), and (iv) as (a), (b), (c), and (d)

5. Page 8, line 12.
Following: "located."
Insert: "Each employer shall maintain a copy of any correspondence sent or received by the employer in an effort to obtain a material safety data sheet for a hazardous chemical when none was provided by the chemical manufacturer or distributor."

XXXXXX

XXXXXXXX

Chairman.

FEBRUARY 22 1985

6. Page 9, lines 6 through 9.

Following: line 5

Strike: subsection (b) in its entirety

Penumber: subsequent subsections

7. Page 9, line 20.

Following: line 19

Strike: "informed by"

Following: "employer"

Insert: "records notice"

8. Page 9, lines 21 through 25.

Following: "workplace." on line 21

Strike: remainder of lines 21 through 25

Insert: "The county clerk and recorder shall index the information provided under subsection (1) by workplace name and all entries for a workplace must be grouped together in the index. The index must not be combined with any other type of index."

9. Page 16, line 13.

Following: "violated"

Strike: "and will continue to violate"

10. Page 16, line 12.

Following: "[this act]"

Insert: "and the health officer does not receive a corrective response within 10 days of notifying the employer of the violation"

11. Page 17, line 6.

Following: "occurred"

Insert: "and the county attorney does not receive a corrective response within 10 days of notifying the employer of the violation"

12. Page 17, line 14.

Following: "to be"

Insert: "knowingly"

AND AS AMENDED

DO PASS

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 19, 1985

The meeting of the Business and Labor Committee was called to order by Chairman Bob Pavlovich on March 19, 1985 at 8:00 a.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present.

SENATE BILL 452: Hearing commenced on Senate Bill 452. Senator Dorothy Eck, District #40, sponsor of the bill, stated this is the "Employee and Community Hazardous Chemical Information Act" and requires employers who do not comply with OSHA to post a list of hazardous chemicals used in the workplace. The local firemen are the most concerned with this issue. The county clerk and recorder will index the information and all will have one place to go to review records. Senator Eck distributed to committee members Exhibit 1 which is attached hereto.

Proponent Vern Erickson, representing the Montana State Fire Fighters Association, offered his support of the bill.

Proponent Jim Murry, Executive Secretary for the Montana State AFL-CIO, supplied written testimony which is attached hereto as Exhibit 2.

Proponent Bruce Suenram, representing Missoula Rural Fire and Career Fire Chiefs, stated this will allow fire fighters to do a better job and preplan in many cases.

Proponent Marcie Quist, representing the Montana Agri Business Association and Owner, Wheatbusters offered her support as amended and stated this system is being used in most states.

Proponent Lyle Nagel, representing the Montana State Volunteer Firemen's Association, stated this will assist fire fighters. Mr. Nagel shared a case in Shelby where a company would not disclose what chemicals they had.

Proponent Elieen Robbins, representing the Montana Nurses Association, supplied written testimony which is attached hereto as Exhibit 3.

Proponent Butch Turk, representing the Peace Legislative Coalition, expressed his concern with radioactive materials.

Mr. Turk explained that any requirement of nuclear material would preempt, some maintenance of nuclear material should be included.

Proponent Stan Walthall, representing the Lewis and Clark County Health Department, stated this is a step in dealing with accidents and protecting lives.

Proponent Gene Fenderson, representing the Montana Building and Construction Trades Council, explained that in many instances this profession is the first to come in contact with a chemical. A letter to all members of the painter unions from the international president was sent to request all painters when seeing a doctor to present this letter concerning the studying of chemical makeups and the possible hazards to ones family and themselves.

Proponent Teri England, representing the Montana Public Information Research Group, supplied written testimony which is attached hereto as Exhibit 4.

Proponent Joe Brand, representing the United Transportation Union, Brotherhood of Locomotive Engineers and Brotherhood of Airline Clerks, stated these people haul hazardous materials and have been opposed to it. The problems arise in knowing what they are and the precautions to take in case of rupture or derailment. The responsibility is placed solely on the conductor and this should be to someone with more authority. Lists are sent out but are not always accurate, added Mr. Brand.

Proponent Russ Brown, representing the Northern Plains Resource Council, supplied written testimony which is attached hereto as Exhibit 5.

Proponent Terry Minow, representing the Montana Federation of Teachers, offered her support of the bill.

Proponent Bob Kelly, State Fire Marshall, offered his support and gave the following statistics to responses to hazardous materials: 1981 - 1,394 calls; 1982 - 1,632; 1983 - 1,979; and 1984 - 1,484.

Proponent Howard Rosenleaf, Business Agent, Western Montana Council of Carpenters, explained they work with chemicals and have no opposition to doing so, but want to know what they are working with to protect themselves.

Proponent Bob Anderson, representing Common Cause of Montana,

offered his support of this "right to know" legislation.

Proponent Jerry Calvert, representing The Bozeman Environmental Information Center, supplied written testimony which is attached hereto as Exhibit 6.

Proponent John Mohlis, representing the Bozeman Central Labor Council, supplied written testimony which is attached hereto as Exhibit 7.

Proponent George Ochenski, representing the Montana Environmental Information Center, explained that a lot of work has gone into this bill and this is the compromise reached by all concerned parties.

Proponent Sue Bartlett, Clerk and Recorder for Lewis and Clark County, explained the amendment was designed to help the county meet the technical requirements and will make the information easy to cross index. This is a satisfactory requirement and is a feasible mechanism at the county level.

Proponent Mike Keating, Business Agent, I.U.O.E. Local #400, offered his support of the bill.

Proponent Janelle Fallan, representing the Montana Chamber of Commerce, distributed to committee members Exhibit 8 which is attached hereto. Ms. Fallan explained the proposed amendment.

Proponent Darwin VanDeGraaff, representing Rocky Mountain Oil & Gas Association, supplied written testimony which is attached hereto as Exhibit 9.

Proponent Larry Wineberg, representing the Montana University System, explained this is a very complex problem. Mr. Wineberg stated page 3, line 14 of the bill, will still allow an employee to refer back to OSHA. A placard system through the university would warn the public and assist in emergency services.

Proponent Ray Blehm, representing the Montana State Fire Fighters, stated they have a mutual aid agreement with the refineries. This will ease the burden of companies who want to find out more about chemicals.

Proponent Wyatt Frost, stated it is important for a person to have the knowledge to know what they are dealing with.

Opponent Ward Shanahan, representing Chevron Corporation, supplied written testimony which is attached hereto as Exhibit 10.

Opponent Dennis Shea, representing Atlantic Richfield Company and ARCO Metal Aluminum Division, supplied written testimony which is attached hereto as Exhibit 11.

Opponent Riley Johnson, representing the National Federation of Independent Business, explained that they are not opposing the concept but all the problems have not been answered. All of the concerns should be addressed prior to passage of this bill.

In closing, Senator Eck explained that the problems have been worked out over a two year period. The majority of the amendments proposed are minor points that will fine tune the bill. Most prefer having the information with the county clerk as it would be costly to give the Department of Health the appropriation for record keeping. The system cost will be shared by the county and the employer.

Representative Schultz asked Vern Erickson why the information would be required in two places. Mr. Erickson stated in rural areas the fire department is not open at all times and all counties have a clerk and recorder.

Representative Kitselman asked Sue Bartlett if the reason for placing this in the clerks office is to generate the \$5 per page filing fee, which would cost approximately \$1,385 per year. Ms. Bartlett explained that they must filed once a year at the cost of \$5 per page.

Representative Kitselman asked George Ochenski if the reason for placing the filing in the clerks office is to generate revenue even when they are generally open Monday through Friday 7:30 a.m. to 4:30 p.m. Mr. Ochenski stated the reason is because this is the most standard setup for maintaining information in Montana.

Representative Brandewie asked George Ochenski how many chemicals are listed and if this address' pharmaceutical chemicals. Mr. Ochenski explained that OSHA has 600 chemicals and pharmaceuticals are exempt.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on Senate Bill 452 was closed.

SENATE BILL 446: Hearing commenced on Senate Bill 446. Senator Tom Hager, District #48, sponsor of the bill, explained this creates the offense of unlawful appropriation of retailer property consisting of purposely or

SB 452

Amendments to Third Reading Copy

Senator Eck

1. Page 5, line 18.
Strike: "OR"
Insert: "(e) the radiological properties of any source, byproduct, or special nuclear material as defined in sections 11(z), 11(aa), and 11(e)(1) of the federal Atomic Energy Act of 1954; or"
Renumber: subsequent subsection
2. Page 8, lines 18 through 20.
Strike: lines 18 and 19 in their entirety through "located." on line 20
3. Page 9, line 17.
Following: "sheet"
Insert: "certified by the employer"
4. Page 9, line 22.
Strike: "a"
Insert: "an acknowledged"
5. Page 9, line 24.
Following: "(C)"
Insert: "a list acknowledged by the employer of"
Following: "names"
Insert: "or titles"
6. Page 10, lines 3 and 4.
Strike: ", file" through "maintain" on line 4
7. Page 10, lines 5 through 8.
Strike: "The" on line 5 through "workplace," on line 8
8. Page 10, line 25, through page 11, line 1.
Strike: "and" on line 25 through "document" on page 11, line 1.
9. Page 11.
Following: line 7
Insert: "For a workplace that employs fire safety ^{personnel} ~~specialists~~, the local fire chief shall consult with the responsible fire safety official to clarify respective roles and response procedures in the event of an emergency."

NORTHERN PLAINS RESOURCE COUNCIL

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Box 858
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TESTIMONY PRESENTED IN SUPPORT OF
SENATE BILL 452 BEFORE THE HOUSE BUSINESS
AND LABOR COMMITTEE 3-18-85

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE,

FOR THE RECORD, MY NAME IS RUSS BROWN AND I WORK FOR NORTHERN PLAINS RESOURCE COUNCIL.

ON BEHALF OF NORTHERN PLAINS AND THE YELLOWSTONE VALLEY CITIZENS COUNCIL, A CITIZENS GROUP FROM BILLINGS, I URGE YOUR SUPPORT OF SENATE BILL 452.

MR. CHAIRMAN, THE PREVIOUS TESTIMONY HAS WELL DOCUMENTED THE RATIONALE FOR FOR THIS TIMELY AND CRUCIAL PIECE OF LEGISLATION.

SB 452 IS THE RESULT OF A SEVERAL YEAR PROCESS THAT INCLUDED INPUT FROM INDUSTRY AND CITIZENS GROUPS, EMPLOYEES AND EMPLOYERS. AS YOU HAVE SEEN, IT IS ALSO STRONGLY SUPPORTED BY THOSE EMERGENCY RESPONSE PERSONNEL THAT ARE DIRECTLY EFFECTED BY THE TYPE, LOCATION AND STORAGE OF CHEMICALS.

MR. CHAIRMAN, NORTHERN PLAINS URGES THE COMMITTEE TO GIVE A DO PASS RECOMMENDATION TO SB 452. THANK YOU FOR THE OPPORTUNITY TO TESTIFY IN FAVOR OF SB 452.

RUSS BROWN
NPRC Staff

The Bozeman Environmental Information Center

P. O. Box 3865
Bozeman, MT 59715

Testimony in Support of SB 452
Before The
House Business and Labor Committee
March 19, 1985

Bozeman EIC, representing approximately 120 members of the Montana Environmental Center in Gallatin and Park counties would like to express its support for SB 452: 'An Act Creating the 'Employee and Community Hazardous Chemical Information Act'

An estimated 575,000 different chemicals are produced and used in American industry. Of these a small number have been found to be hazardous to human health. We believe that employees in a workplace that uses hazardous chemicals should have the "right-to-know" about the dangers of the materials they are working with and the right to education and preventive training that will minimize exposure to dangerous toxics. We further believe that the people of a community in which hazardous materials are used should have access to information about dangerous chemicals, especially local fire departments. SB 452 represents a reasonable legislative approach to granting workers and the communities the information they need to avoid unhealthy and life-threatening exposure to dangerous toxic materials.

Under SB 452 employees and people in the community will have access to the relevant information. For example, when a fire breaks out in a facility where hazardous materials are used and/or stored, firefighters will have the information they need in order to know how to effectively fight the fire and minimize danger to themselves and to property. This is exactly what happened when a fire broke out in Lewis Hall on the MSU campus this January. Since the potentially dangerous chemical fire at the university in June, 1983 MSU instituted a chemical safety program which proved effective this January. When the firefighters arrived on the scene a chemical warning placard at the entrance of the burning area told them of the properties of the materials within. Thanks in part to the warning placard no firefighters were needlessly exposed to dangerous toxics.

SB 452 represents the legislative recognition of what we believe must be a fundamental right in any society. People should have the right to know what they working with and living close to. SB 452 further provides that

employees who are exposed must be informed of such exposure so that they can receive appropriate treatment.

Finally, SB 452 reasonably addresses those who might assert that this bill would violate the confidentiality of trade secrets. The proposed law does allow the withholding of a trade secret name while permitting employees and communities access to information concerning the effects of such chemicals. This is particularly critical in the event that someone is exposed. When exposure does occur the chemical properties and presumed effects must be communicated to responsible health care professionals.

Other states and local communities have already enacted similar laws. We urge the committee to concur with the Senate in passing this bill. (By Jerry W. Calvert, Board of Directors).

3/19/85

SB452 Submitted by: John
BOZEMAN MONTANA CENTRAL LABOR COUNCIL A.F.L.-C.I.O. Mohlis422 EAST MENDENHALL
BOZEMAN, MONTANA 59715

March 18, 1985

Testimony- Senate Bill 452

My name is John Mohlis and I am the president of the Bozeman Central Labor Council. I come before this committee today to urge passage of Senate Bill 452. This is a good bill which would give workers the right to know of hazardous chemicals in the workplace. More than one-quarter of America's workforce may be exposed to occupational health hazards, and a total of 100,000 Americans die each year from occupational diseases. This bill would protect employees manufacturing chemicals and employees handling chemicals on the job. It would also protect firefighters involved in fighting fires where dangerous chemicals might be stored, as well as the community at large. Senate Bill 452 is a big step in the right direction towards a safer workplace, a safer community, and a safer Montana. I support full ratification of Senate Bill 452. Thank you.

Respectfully submitted,

John Mohlis
1200 Royal Road
Belgrade, Montana 59714
Phone-388-1324

Exhibit 2

3/19/85

SB452

Proposed Amendment to SB 452

Submitted by: Janelle
Fallan

Add to P. 10

Section 9. (3)

The county clerk and recorder may disclose to individual private citizens, or to the general public if appropriate, pertinent information, as required under subsection (1), relating to hazardous properties and health hazards of hazardous chemicals at a workplace if a person or persons requesting the information may have suffered or is likely to suffer illness or injury as a result of exposure to one or more of the hazardous chemicals or has any other demonstrable reason to receive the information. The identity of a person requesting the information must be obtained and kept on file by the clerk and recorder. The clerk and recorder shall notify the employer of requests for information provided under subsection (1).

3/19/85

SB452

Submitted by: Darwin
VanDeGraaffPOSITION PAPER
S.B. 452EMPLOYEE AND COMMUNITY HAZARDOUS
CHEMICAL INFORMATION ACT

Section 2. This section delineates definitions used in the act. We would suggest that an additional definition be added verbatim from the OSHA standard, specifically: "Chemical name means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS) rules of nomenclature, or a name which will clearly identify the chemical for the purpose of conducting a hazard evaluation." Including this definition will clarify the use of the term "chemical name" as it appears elsewhere in the act.

Section 9. This section outlines the requirements for emergency and community information. Subsections (1) and (2) require that hazardous chemical information be transmitted to the County Clerk and Recorder where they shall be maintained. We do not believe that these subsections are in the best interests of either the private or public sectors and would propose that this information be maintained at the place of business for the following reasons:

- A. Maintaining identical records at both the clerk and recorder's office and at the place of business, as currently proposed, would require additional office space and equipment as well as administrative personnel at the clerk and recorder's office resulting in an increase in costs and taxes. Obviously, the current proposal is not cost effective.
- B. Members of the general public are traditionally concerned only with the potential hazards of businesses near their place of residence. Maintaining the information at the place of business would provide for easier access by eliminating the inconvenience of traveling to the clerk and recorder's office.

Subsection (1) (d) deals with "the names and telephone numbers of responsible individuals" and we would suggest substituting "titles" for "names" to allow for personnel moves.

Subsection (3) concerns the availability of information to the general public and should be amended to reflect that the required information will be available at the place of business.

Subsection (4) addresses the availability of information to the local fire chief and should be modified to reflect that the required infor-

mation will be available at the place of business. At first glance, it might seem that not having centralized records would impose an undue hardship on local fire chiefs; however, examining the records and inspections, as outlined later in the act, would be carried out concurrently.

Subsection (5) requires that fire chiefs must be permitted onsite inspection for the purpose of, in part, "planning fire department activities in case of an emergency." We believe that an inspection for this purpose is, in some instances, unwarranted. In our case, we do not rely on any fire departments, other than our own, to respond to emergencies. In our experience, outside fire departments have neither the equipment nor the expertise to deal with the types of emergencies which are unique to our business, and accordingly, we are prepared to cope with our own problems without reliance on or assistance from outside fire departments. In extremely rare cases where outside help might be requested, individuals responding to the request would function only under the direct supervision of our experts. In these instances, inspections for purposes of planning fire department activities have no value. We do not dispute the need for such inspections where outside fire departments have the prime responsibility for responding to emergencies but would suggest that an exemption be made for businesses in our category. In its present form, this subsection is counterproductive for both businesses and fire chiefs.

Section 11. This section addresses trade secrets. We propose that Subsection (1) (b) be revised from "the material safety data sheet discloses the properties and effects of the hazardous chemical" to "the material safety data sheet discloses the properties and effects of exposure to the hazardous chemical." We have also been advised that Subsection (2) may be unconstitutional and would advise that a legal opinion be obtained in this regard.

3/19/85

SB452

Submitted by: Ward
Shanahan

SENATE BILL 452

Employee & Community Hazardous
Chemical Information Act

My name is Ward A. Shanahan. I am a lawyer in Helena and I am the registered lobbyist for CHEVRON CORPORATION. I appear in opposition to SB 452, not because my client resists appropriate health and safety regulation, but because this one appears to be clearly pre-empted by Federal Law.

29 CFR 1910.1200 Provides:

(a)(1) The purpose of this section is to ensure that the hazards of all chemicals produced or imported by chemical manufacturers or importers are evaluated, and that information concerning their hazards is transmitted to affected employers and employees within the manufacturing sector. This transmittal of information is to be accomplished by means of comprehensive hazard communication programs, which are to include container labeling and other forms of warning, material safety data sheets and employee training.

(a)(2) This occupational safety and health standard is intended to address comprehensively the issue of evaluating and communicating chemical hazards to employees in the manufacturing sector, and to pre-empt any state law pertaining to this subject. Any state which desires to assume responsibility in this area may only do so under the provisions of section 18 of the Occupational Safety and Health Act (29 U.S.C. 651 et seq) which deals with state jurisdiction and state plans. (Emphasis added)

We do not believe that Montana has yet adopted a state plan under OSH. Therefore we believe the provisions of Senate Bill 452 are not only premature, they may be entirely unnecessary.

We also direct the Committee's attention to the holding of the United States District Court for the District of New Jersey in January 1985 in the case of New Jersey State Chamber of Commerce v Hughey 600 F.Supp 606 (1985) where the court held that an Act similar to SB 452 was pre-empted by federal law.

If a state plan is required in a heavily industrialized state like New Jersey we submit that there is no rush to adopt a statute in a sparsely industrialized state like Montana. The Montana Department of Health and Environmental Sciences should be given the opportunity to adopt a plan in accordance with federal law.

Respectfully submitted,

Ward A. Shanahan
Chevron Corporation

3/19/85

SB452

Submitted by: Dennis
Shea

Atlantic Richfield Company
Comments on
Montana SB 452

Atlantic Richfield Company recognizes its responsibilities to its employees regarding hazard communication. We support the OSHA Hazard Communication Standard (29 CFR 1910.1200, 48 Federal Register, November 25, 1983) as a uniform, effective and comprehensive program.

Atlantic Richfield believes that additional state laws and regulations regarding hazard communication are redundant and unnecessary. Therefore, we oppose the enactment of Montana SB 452. Some of its provisions conflict with the federal Hazard Communication Standard. It would be burdensome for industry to comply with such a law, as drafted, in addition to complying with the federal standard. Also, expansion of the bill's coverage to include all SIC Codes has the potential to be extremely onerous for those industries in SIC Codes not currently covered by the federal Hazard Communication Standard. Expansion beyond such coverage (SIC Codes 20-39) by various states could result in numerous problems for industries with multi-state operations in attempting to comply with numerous and inconsistent state laws.

As a multistate employer, Atlantic Richfield is concerned about the enactment of overlapping federal, state and local laws covering the identification and labeling of chemicals. We oppose the enactment of any new law that would conflict with the federal standard. Inconsistent state and local laws can create significant compliance problems and obstacles to interstate commerce, when a product is marketed in more than one state. State and local laws can also place a heavy administrative burden on their own governments, which are sometimes required to analyze and file thousands of material safety data sheets.

OSHA contends that its standard preempts any state standard dealing with hazard communication requirements for employees in the manufacturing sector, except for states with approved state plans. Montana is not an approved state-plan state. Therefore, any Montana right-to-know law dealing with the manufacturing sector would be preempted, according to OSHA.

The U.S. District Court for the District of New Jersey ruled on January 3, 1985, that OSHA's Hazard Communication Standard preempts that portion of the New Jersey Worker and Community Right to Know Act which regulates manufacturing businesses covered by the federal standard. That decision set a legal precedent for other states with competing state laws or regulations.

- o Section 9(3) - Information given to the clerk or recorder should not be distributed to the public, without the approval of the employer. This would insure that information is provided to emergency response agencies and those who have a need to know detailed information about the hazardous substance.
- o *Section 10(1) - This section would require an employer to provide an employee with information on toxic substances "upon request." Otherwise, the employee would not be required to work until the information is made available. This would not be unreasonable, if the employer already had the requested material safety data sheet on file. However, it would be virtually impossible to fulfill this requirement, if the information were not on file. It could take several weeks to obtain a material safety data sheet (MSDS) from a manufacturer. The only requirement placed upon the employer should be to request an MSDS from the manufacturer, and, if it is not received within 30 days the employer should only have to notify the employee and the appropriate governmental agency that the information had not been received. The provision allowing employees not to work should be eliminated.
- o *Section 11 - This section would not provide for adequate trade secret protection. The trade secret provisions of the attached Delaware Bill (Section 2416) should be adopted.
- o Section 15 - This section would allow any person who believes an employer is not complying with the provisions of SB 452 to submit a written complaint to the local health officer or county attorney. Atlantic Richfield believes that complaints regarding workplace health and safety should be submitted only by employees or their designated representatives, as provided in the Delaware bill (Section 2413).
- o Section 17 - Effective dates should be consistent with the federal Hazard Communication Standard, which are: (1) November 15, 1985 for chemical manufacturers and importers to label containers of hazardous chemicals and provide MSDSs with initial shipments; (2) November 25, 1985 for distributors to be in compliance with the standard; and (3) May 25, 1986 for employers to be in compliance with the standard, including initial training for all current employees.

*Major concerns

what the rate is for newspaper carriers. Mr. Blewett suspects it is very low. Representative Thomas asked Mr. Blewett what the definition of independent contractor is. Mr. Blewett explained they look at specific control circumstances, the method of pay, required equipment supplied by the employer, etc. The weight of evidence tips toward newspaper carriers being employees, but is difficult to determine. Control is an important part, but is not the only factor. Representative Bachini asked Gary Blewett for his opinion regarding the status of a newspaper carrier. Mr. Blewett explained his daughter is a newspaper carrier and he feels she is an employee. She signed a contract with the paper at the age of 12 years which probably is not binding. Representative Ellerd stated these kids and their parents or guardians should be told whether they are or are not covered. Representative Hansen asked Mike Malloy why newspapers don't cover their carriers with workers comp insurance. Mr. Malloy stated it is because they are independent contractors and it is unfair to make them responsible when they don't have control. Representative Driscoll asked Mike Malloy if the newspaper set the price that a carrier may charge. He explained they suggest a price. Representative Driscoll offered a substitute motion that Senate Bill 356 be TABLED. A roll call vote resulted in 12 members voting yes and 8 members voting no. Senate Bill 356 is TABLED.

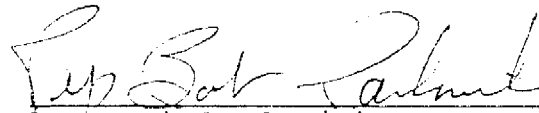
ACTION ON SENATE BILL 343: Representative Hansen moved DO PASS on Senate Bill 343. Representative Schultz stated this does not affect House Bill 901. Second was received, Senate Bill 343 will BE CONCURRED IN by unanimous vote.

ACTION ON SENATE BILL 452: Representative Kadas moved DO PASS on Senate Bill 452 and moved all of the amendments as shown on the grey bill attached hereto as Exhibit 3, except for the amendment on page 14, line 21 and on page 11, line 4. Representative Kitselman stated the issue of the clerk and recorder only being open between 7:30 a.m. and 4:30 p.m. is still not addressed in the bill. The amendments moved by Representative Kadas received a unanimous vote. Representative Kitselman moved the chamber of commerce amendment and expressed his concern with trade secrets. Representative Simon explained the chamber amendments wouldn't affect that. Representative Kitselman stated a person requiring information may have suffered an injury as a result of exposure and this is public record. Representative Simon

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stated they are placing limitations on this. Representative Wallin explained this is a complicated and unnecessary bill and the committee was told not to tamper with it and offered a substitute motion that Senate Bill 452 be TABLED. A roll call vote resulted in 11 members voting yes and 9 members voting no. Senate Bill 452 is TABLED.

ADJOURN: There being no further business before the committee, the meeting was adjourned at 9:40 a.m.



Rep. Bob Pavlovich,
Chairman